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FILED

December 21 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA 09-0578

HERMAN GONZALES; FAWN LYONS;)
KEN LAUDATO; LAWRENCE)
WALKER; GARY MANSIKKA; GARY)
GALETTI; GREG WHITING; MARVIN)
KRONE; RICHARD BLACK; JIM)
KELLY; CHRIS SOUSLEY, all others)
similarly situated,)

Plaintiffs and Appellees,)

v.)

MONTANA POWER COMPANY;)
NORTHWESTERN CORPORATION, a)
Delaware corporation; PUTMAN AND)
ASSOCIATES, INC., a Montana)
corporation; NORTHWESTERN)
ENERGY; NORTHWESTERN)
CORPORATION dba NORTHWESTERN)
CORPORATION as a reorganized debtor,)
subsequent to its plan confirmation, herein)
after referred to as NOR; and JOHN DOES)
II and III and JOHN DOES IV through XX,)

Defendants and Appellants.)

**APPELLANT PUTMAN &
ASSOCIATES, INC.'S
RESPONSE TO APPELLEE'S
MOTION FOR EXPEDITED
PROCEEDINGS AND
SUSPENSION OF THE RULES**

Appellant, Putman & Associates, Inc., hereby responds to Appellees' motion for expedited proceedings and suspension of the rules. Appellees have requested that this Court not allow extensions for filing briefs and expedite its decision. The parties have stipulated to a briefing schedule, so the only remaining issue to decide is whether this Court will expedite its decision. There simply are no exigent circumstances in this case to justify expedited proceedings and placing this appeal ahead of other cases on the Court's docket.

ARGUMENT

Rule 29, Montana Rules of Appellate Procedure, allows this Court to suspend the rules of appellate procedure for "good cause" shown. This Court has previously suspended the rules and allowed for an expedited hearing when warranted by exigent circumstances. For example, this Court has suspended the rules because of an impending sale of a ranch. *Nevala v. McKay*, 178 Mont. 327, 329, 583 P.2d 1065, 1066-67 (1978). To review a challenge to a ballot initiative to be voted on the following day. *Montanans For Equal Application Of Initiative Laws v. State*, 2007 MT 75, ¶ 12, 336 Mont. 450, ¶ 12, 154 P.3d 1202, ¶ 12. To prevent continued uncertainty of where minor children would reside. *In the Matter of B.P. and A.P., Youths in Need of Care*, 2000 MT 39, ¶23, 298 Mont. 287, ¶23, 995 P.2d 982, ¶23.

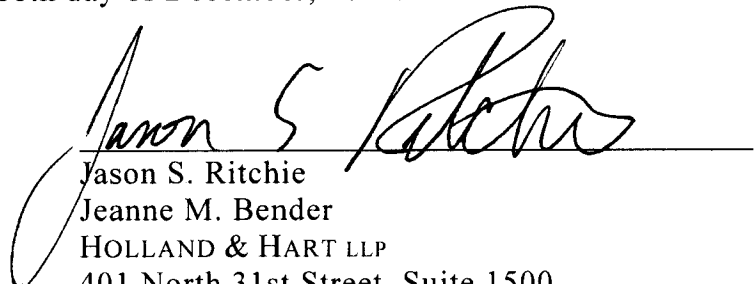
No such circumstances are present here. Appellees argue that suspension of the rules and an expedited decision is warranted here because the case has been pending for over 10 years. Appellees' Br. at 1-2. This argument is not persuasive. First, the appellees waited for almost 10 years to file a motion to certify the class. While some of the delay can be attributed to the bankruptcies of NorthWestern Corporation and the

Montana Power Company, there was still ample time to file the motion that is now on appeal. Second, it should be noted that this case is premature. As Appellees point out, the underlying *Gonzales, et al. v. Montana Power Company, et al.*, WCC #9803-7941 “continues to be adjudicated”. Appellees’ Br. at 2. There is simply no reason to expedite this matter when the Appellees have delayed this case, and the underlying action is still being adjudicated in the Workers’ Compensation Court.

CONCLUSION

This case is like every other appeal on the Court’s docket. It is very important to the parties; however, there are no exigent circumstances that make it more important than any other case currently on appeal.

Respectfully submitted this 18th day of December, 2009.


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ATTORNEYS FOR DEFENDANT/
APPELLANT PUTMAN & ASSOCIATES,
INC.

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing
APPELLANT PUTMAN & ASSOCIATES, INC.'S RESPONSE TO APPELLEE'S
MOTION FOR EXPEDITED PROCEEDINGS AND SUSPENSION OF THE RULES by
depositing said copy into the United States mail, postage prepaid, addressed as follows:

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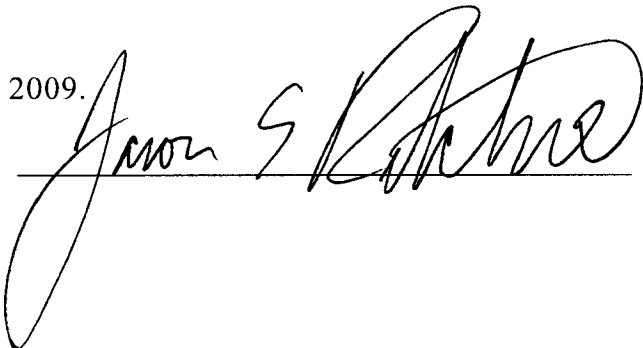
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Dated this 18th day of December, 2009.

A handwritten signature in dark ink, appearing to read "James S. Rafter", is written over a horizontal line.